

## TITLE 18. STATE BOARD OF EQUALIZATION

### NOTICE IS HEREBY GIVEN:

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to promulgate Regulation 1507, Technology Transfer Agreements, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on March 27, 2002. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by March 27, 2002.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law provides, in Revenues and Taxation Code sections 6011(c)(10) and 6012(c)(10), enacted by Assembly Bill 103, Stats. 1993, Chap. 887 (AB 103), that the gross receipts from the sale of tangible personal property under a technology transfer agreement are not included in the measure of tax. The statutes “technology transfer agreements” and prescribe how the gross receipts from such sales are to be calculated.

Regulation 1507, Technology Transfer Agreements, is proposed to interpret, implement and make specific Revenue and Taxation Code sections 6011 and 6012. The regulation is proposed to incorporate the California Supreme Court decision in *Preston vs. State Board of Equalization*; clarify how the statutory language applies to technology transfer agreements that include transfers of patent interests; and describe the application of tax to technology transfer agreements.

### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that proposed Regulation 1507 does not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed regulation will not result in direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

### EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5 (a)(8), the Board of Equalization makes an initial determination that the adoption of amendments to Regulation 1507 will not have a significant statewide adverse economic impact directly affecting business.

The adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

#### COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action

#### SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

#### FEDERAL REGULATIONS

Proposed Regulation 1507 has no comparable Federal regulations.

#### AUTHORITY

Section 7051 Revenue and Taxation Code.

#### REFERENCE

Sections 6011 and 6012 Revenue and Taxation Code.

#### CONTACT

Questions regarding the substance of the proposed regulation should be directed to Mr. David Rosenthal, Regulations Coordinator, telephone (916) 324-2195, fax (916) 323-3387, email [Dave.Rosenthal@boe.ca.gov](mailto:Dave.Rosenthal@boe.ca.gov) or by mail to the State Board of Equalization, Attn: Dave Rosenthal, MIC :50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0082.

The Board will consider comments on the regulation if received by March 27, 2002. Written comments for the Board's consideration, notice of intent to present testimony or witnesses, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, email [Diane.Olson@boe.ca.gov](mailto:Diane.Olson@boe.ca.gov) or to Ms. Lydia Moreno, Business Taxes Analyst, telephone (916) 322-1931, email [Lydia.Moreno@boe.ca.gov](mailto:Lydia.Moreno@boe.ca.gov) or by mail to the State Board of Equalization, Attn: Diane Olson or Lydia Moreno, MIC:80, P.O. Box 942879, Sacramento, CA 94279-0080.

## ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

## AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed rule amendment. Those documents and all information on which the proposal is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Diane Olson, Regulations Coordinator, (916) 322-9569, at P. O. Box 942879, 450 N Street, MIC :80, Sacramento, CA 94279-0080. The express terms of the proposed regulation amendment is available on the Internet at the Board's website <http://www.boe.ca.gov>.

## AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed rule amendment. It is also available for public inspection at 450 N Street, Sacramento, California.

## ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with law, adopt the proposed rule if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the rule amendment. The text of the modified rule will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified rule will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified rule for fifteen days after the date on which the modified rule is made available to the public.

Dated: February 8, 2002

STATE BOARD OF EQUALIZATION

Deborah Pellegrini  
Chief, Board Proceedings Division